UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1997/NGO/37
14 March 1997

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Fifty-third session
Agenda item 10

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by North-South XXI, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[4 March 1997]

The human rights situation in South Korea

1. South Korea's economic success has long concealed the systematic violation of human rights practised by successive military regimes. The "civil" regime of President Kim Young Sam uses the same methods as previous military dictatorships, as attested by the violent repression of the demonstrations following the fraudulent adoption of the law of 26 December 1996, which violated the labour standards drawn up by the ILO (restrictions on freedom of association, arbitrary dismissals, reinforcement of political police powers, etc.).

2. The "civil" regime has also maintained in force the "National Security Act", which assimilates any opponent to an "agent" of the North subject to the severest penal sanctions. There are just as many trade unionists in prison as under military regimes.

3. Prisoners of war more than 70 years old, who have been detained since the 1953 armistice agreements and released after more than 40 years in detention, have been denied the right to be reunited with their families in the North, despite requests from the North Korean Red Cross to the South Korean Red Cross and the ICRC.

4. The international protection from which the South Korea regime has benefited from the outset, allowing it to conceal its practices, contrary to human rights, is simply the result of South Korea's strategic position and its economic importance on the world market.

5. We therefore ask the Commission on Human Rights to appoint a special rapporteur on the human rights situation in South Korea, which is portrayed as a "model" for all developing countries.

UNITED
NATIONS

E

Economic and Social Council

Distr.
GENERAL

E/CN.4/1997/NGO/38
14 March 1997

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-third session
Agenda item 10

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by Nord-Sud XXI, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[4 March 1997]

GE.97-10980 (E)

1. We note with deep regret that the human rights record of the Government of Sri Lanka continues to deteriorate at an alarming rate all over the island. The gross violations of the humanitarian law of armed conflict also cause us grave concern. Four areas particularly concern us.

2. First, the government security forces persecute Tamil civilians throughout the Island. This persecution takes the form of extrajudicial killings, disappearances, torture, arbitrary arrest and indefinite detention. Second, there is a functional embargo on food and medicine to the Tamils living in the Wanni area. Third, all Tamils attempting to leave the Wanni are being detained under appalling conditions. Finally, the Government's war strategy in the north-east includes massive and indiscriminate aerial bombing and shelling of Tamil areas.

3. While many specific violations will be documented, it is important to recognize that they all stem from a more basic problem, which is the Government's decision to conduct a war against the Tamil people using an exclusive Sinhala army rather than seeking a political solution which recognizes the existence of the Tamils as a people with a homeland.

4. The Government claims that the war is against the Liberation Tigers of Tamil Eelam (LTTE) and not the Tamil people. But Sri Lanka's methods of war make a mockery of this claim. The government forces are incapable of differentiating between the LTTE and the Tamil civilians, so every Tamil man or woman becomes a suspect in the eyes of the military. The conduct of the Sri Lankan armed forces is akin to drag-net fishing. The lives not required are maimed and thrown back into the ocean with no regard for the damage done.

5. We are constrained to condemn the Government's effective denial of food and medicine to Tamils living in the Wanni area. Because of this policy medicines were not available to treat the recent outbreak of malaria during the rainy season in the Wanni district. Currently the army rather than medical personnel determine the type and quantity of medicines allowed into the Wanni area. There seems to be an intentional policy of debilitating the population living in areas controlled by the LTTE. Since the recent Edibala offensive of the Government, the border was closed and it continues to be closed for any traffic of food and medicines to the Wanni district.

6. The Government detains all Tamils coming out of the Wanni district. These Tamils are detained indefinitely and are kept against their will in camps euphemistically called welfare centres. The Tamils who are forcibly detained in these camps live in appalling conditions. They report overcrowding, the spread of infectious diseases and the absence of adequate sanitary facilities. Further, their unexpected detention without knowledge of what the future holds is a source of anxiety to these Tamils, particularly because they are held without being charged. Their freedom of movement is denied only because of their identity. The Government of Sri Lanka seems to be practising a policy of forced evacuation of the Tamils by bombing and shelling Tamil population centres and then holding them in detention camps.

7. The arbitrary arrest and detention of Tamils in other areas of the country continues unabated. This is particularly a problem in Colombo, where many Tamils have fled to escape the war. Searches of Tamil homes at all times

of the night and day by armed men have become a routine in Colombo. Further, some security personnel repeatedly arrest Tamils for personal profit. The legal framework for such actions is the Prevention of Terrorism Act, which allows for such arbitrary detention and arrests. Many organizations have repeatedly pointed out the Draconian nature of this law, which sanctions abuse of individual rights. The emergency regulations under which the country is administered also facilitate such violations of human rights. The legal remedies for such actions are weak and are often beyond the means of an individual citizen.

8. Several independent reports have documented the continued practice of extrajudicial killings by the Sri Lankan armed forces and also by other armed groups under the control and direction of the army. In February 1996, the armed forces murdered 24 Tamil civilians including 13 women and 7 children under 12 years of age in Kumarapuram in the Eastern province. Twenty-three Tamil youths were killed and their bodies were found floating in lakes around Colombo. These Tamils were taken into custody and then murdered by the special task force set up as a paramilitary force by the Government. In July 1996, the charred body of a Tamil textile merchant detained under the emergency regulations was found in the North Central province. There were many other such cases indicating a fairly widespread practice of arbitrary extrajudicial killing by the security forces.

9. Massive aerial bombing and random shelling from army camps in the north-east also results in the arbitrary killings of Tamil civilians. Numerous deaths of such civilians, including names and ages, have been documented by the LTTE, local Tamil newspapers, TCHR and the Tamil community networks which eventually hear news of friends and relatives. International media organizations are unable to confirm these reports due to the Government's ban on press activity within the LTTE held areas. Nonetheless, such random shelling seems to be designed to terrorize and punish the Tamil people, without any discernible strategic objectives.

10. Credible sources have reported the disappearance of 500 to 700 Tamils from the Northern Jaffna district since the occupation of that area by the government armed forces.

11. The international community was made aware of the rape and subsequent murder of a 18-year-old-girl (a student in Jaffna), Krishanthy Kumaraswamy, who was arrested at an army checkpoint. Her mother, her 16-year-old brother and a neighbour who went inquiring about her to the army also disappeared and were later found to have been murdered by the army. Over 150 other instances of rape and extrajudicial killings attributed to the army and forces under its direction have been reported but have not received the same public attention. Again, the indignities visited on young Tamil women in their movement between the many checkpoints in the Jaffna peninsula by the Sri Lankan armed forces, though appalling, are often unreported because of the fear of reprisals.

12. Torture has been practised by the armed forces on a more intensive and widespread scale during the past year. Though Sri Lanka has acceded to the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or

Punishment in 1994, there has been no effective implementation of its obligations. Whatever commissions that were formed recently have either not started to function or have not been effective.

13. Credible organizations continue to report the extensive use of torture and rape and mistreatment of detainees and other prisoners, both male and female. The torture methods include putting an individual in a gunny bag with rats, applying chili to sensitive parts of the body, use of electric shock, beatings, suspension by the wrists or feet, placing gasoline soaked bags over their head, etc. Gross violations of this kind are the actions of an army which is essentially a hostile occupying force in the north-east. Thus, while individual incidents must be documented and criticized, we urge that this criticism must be accompanied by the more general demand that the armed occupation of the Tamil homeland by a hostile Sinhala army must come to an end.

14. Some international groups have also accused the LTTE of offences including extrajudicial killing and detention of political opponents, though specific information is sparse. In previous years, the LTTE has been accused of killing Sinhala civilians. LTTE has consistently denied this accusation, claiming that those killed were armed Sinhala civilians fighting the LTTE on behalf of the Government. In recent times, many have observed the absence of any such killings by LTTE.

15. We believe that the fundamental cause of the appalling human rights and humanitarian law situation in the island is the conduct of a war by the Government of Sri Lanka designed to deny the Tamil people their right, as a people, to freely associate with the Sinhala people, as a people, on equal terms.

16. The war itself is a continuation of the policy and practice of successive Governments of managing the Tamil population by unleashing violence and State terror against them. The response of the Tamil people to this violence in defence of their lives, their liberty and their property has been used as an excuse by the State to continue its violence against them.

17. We fear that until the Sinhala dominated Government and the Sinhala opposition agree to offer a viable political solution to the Tamil people, violations of humanitarian law and human rights will continue. Unfortunately, the current Sri Lankan policy is to use massive State force to terrorize and subjugate the Tamils in order to impose a solution on them without their consent.

18. In view of this and in order speedily to improve the situation, we urge the following specific actions:

(i) The Government of Sri Lanka should immediately cease its deliberate aerial bombardment and shelling of Tamil civilians and civilian objects.

(ii) The Government of Sri Lanka should immediately lift the ban on food and medicines into areas populated by the Tamil people and take humanitarian issues out of the administrative control of the armed forces.

(iii) The Government of Sri Lanka should immediately stop the policy of detaining every Tamil in the border town of Vavuniya and allow these Tamils free movement within the country.

(iv) The Government of Sri Lanka should either immediately release all political prisoners and others detained without a charge or prosecute these individuals within a reasonable time.

(v) The Sri Lankan armed forces should withdraw from the Tamil homeland and the Government of Sri Lanka should begin negotiations with the LTTE with the assistance of an international mediator.

(vi) The Government of Sri Lanka should allow immediate free access for international persons and the media to LTTE controlled and government controlled areas in the north-east of the island.

19. We urge immediate action. Even as we speak, many individuals are at risk for loss of dignity and life given the disastrous policies of the Goverr.ment of Sri Lanka.

UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1997/NGO/39
13 March 1997

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-third session
Agenda item 23

THE QUESTION OF CONSCIENTIOUS OBJECTION TO MILITARY SERVICE

Written statement submitted by Pax Christi International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[5 March 1997]

PR TY

GE.97-10925 (E)

Conscientious objection to military service

1. In the wake of the Second World War, the most destructive war of the ages, the United Nations was founded and shortly thereafter, the Universal Declaration of Human Rights was adopted. The Declaration, a mighty step forward for humankind, asserted that "Everyone has the right to freedom of thought, conscience and religion ... ".

2. The right of conscience needed reassertion after the experience of a war in which human beings, in particular the young, were dragooned into military service against their will and even involved in "services", such as those in concentration camps, that were part of larger war crimes. Conscientious objectors suffered imprisonment and even death.

3. Article 18 of the Universal Declaration and article 18 of the International Covenant on Civil and Political Rights protect the rights of conscience, included in which is the right of conscientious objection to military service, the right to refuse to kill.

4. Pax Christi International warmly welcomes the concern of the Commission on Human Rights for the right of conscientious objection to military service. The updated emendations to the report entitled Conscientious Objection to Military Service by Mr. Asbjorn Eide and Mr. C.L.C. Mubaga Chipoya indicate that the right is gaining acceptance by some Member States, but is not yet recognized in others.

5. At its fifty first session, the Commission adopted resolution 1995/83 which addressed many of the outstanding aspects related to the issue of conscientious objection.

6. Pax Christi wishes to emphasize some aspects of the issue. There are various paths leading to a person's conviction of conscientious objection to the taking of human life in warfare. Members of the Catholic Church who reach this conviction base it on the example of Christ who accepted suffering without retaliation and left this as a legacy to his followers.

(a) The consciences of those who espouse complete non-violence should be respected;

(b) The consciences of those who believe in the possibility of a just war, but who are convinced that the war in which they are asked to serve is unjust in aim or method, should be respected. The Catholic bishops of the world, at the Second Vatican Council, upheld the right of both types of objectors in the official document, "The Church in the Modern World" (7 December 1965). The bishops explicitly condemned indiscriminate warfare as "a crime against God and man";

(c) Objectors to military service should be accorded alternative civilian service under civilian supervision. Civilian alternative service should not be of longer duration than the term of military service;

(d) Conscientious objectors who reach their position during military service should be released to alternative service;

(e) Persons recognized by the Government as conscientious objectors should, when qualified, be eligible for works of peace in such agencies as UNHCR, UNICEF, UNEP, etc.;

(f) Those objectors who are compelled to leave their country of origin because of their refusal to perform military service should be aided in achieving asylum;

(g) All efforts should be made on behalf of conscientious objectors imprisoned because of their conviction;

(h) All efforts should be undertaken by the international community on behalf of child soldiers, many thousands of whom are impressed into military service. Where universal military conscription is in force, the minimum age for conscription should be 18. Even where conscription is not in force, the minimum age for military service should be 18;

(i) Governments which enforce conscription should be urged to provide alternative civilian service which is not punitive.

7. Pax Christi offers its help and cooperation in any updating of the report on conscientious objection. Pax Christi welcomes the fact that new and creative ways have been developed so that conscientious objectors may serve their societies, and the human community, in meeting unmet human needs.

8. The discussion of the right to conscientious objection to military service would seem to represent a negative response to governmental programmes. Conscientious objection needs to be seen in its reality as a conscientious affirmation of the value of human life and of service to human needs. Young people who have achieved conscientious objector status are performing socially important human services in may communities in many countries. In their refusal to be part of the enterprise of war, they are implementing the United Nations aim of a warless world and are serving as a prophetic vanguard of world peace.

UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1997/NGO/40
14 March 1997

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-third session
Agenda item 9 (d)

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS

Joint written statement submitted by Caritas Internationalis, the Commission of the Churches on International Affairs of the World Council of Churches and Friends World Committee for Consultation (Quakers), non-governmental organizations in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[7 March 1997]

GE.97-10956 (E)

1. The increasing number of internally displaced persons throughout the world is deeply disturbing. The main causes continue to be internal conflict, ethnic strife, forced relocation, and gross violations of human rights. Many lose their lives or suffer from continuing violence, and forced displacement also breaks up families, cuts important community ties, terminates stable employment, precludes or forecloses formal education opportunities, and deprives vulnerable groups within the society of vital services. The international community must strengthen its efforts to provide assistance and protection to the displaced. The best method of preventing displacement is the strict observance and full realization of human rights.

2. At its fifty-second session, the Commission on Human Rights adopted, without a vote, resolution 1996/52 entitled "Internally displaced persons". 1/ The Commission noted with appreciation the report of the representative of the Secretary-General on internally displaced persons (E/CN.4/1996/52 and Add.1 and 2) and commended him for the activities undertaken so far, in particular his efforts to promote a comprehensive strategy for better protection, assistance and development for internally displaced persons.

3. The resolution also emphasized the need for better implementation of existing international law applicable to internally displaced persons, implicitly recognizing that existing standards provide significant protection to internally displaced persons. The compilation and analysis of legal norms (E/CN.4/1996/52/Add.2, hereafter "the Compilation") indicates that the problem lies primarily in "the unwillingness of States, and/or in non-international conflicts of dissident forces, to observe binding obligations".

4. We regret that the Compilation has yet to be disseminated "widely" as requested, and exists only in English. We welcome the initiative taken by the United Nations High Commissioner for Refugees to produce "A reference manual for UNHCR staff" based on the Compilation.

5. There must be continued support for the development of guiding principles. These will provide further clarity to the legal framework, and could serve as a "compact and usable" document for all those working directly with internally displaced persons.

6. In addressing both the root causes of internal displacement and long-term solutions (including development), particular attention should be given to legal protection for the property-related needs of the internally displaced. No one should be arbitrarily deprived of their property. 2/ There must be a clear recognition of the right to restitution of property lost as a consequence of displacement, or to compensation for its loss.

7. We commend the Governments of Tajikistan and Mozambique for inviting the representative and facilitating his visits in 1996, thus continuing to focus attention on the plight of the internally displaced in particular situations (see E/CN.4/1997/43, Add.1 and 2). We urge other Governments to invite the representative for initial or follow-up visits to their countries.

8. To date, the representative has visited 12 countries during the course of his mandate. 3/ There has not been adequate follow-up to his recommendations and suggestions. Amongst other things, there is a need for:

More action by the Governments of countries visited, in particular to make information publicly available on measures actually taken at a national level, and to cooperate with the United Nations High Commissioner for Human Rights on programmes of advisory services, technical cooperation and monitoring;

A greater commitment of resources by the High Commissioner for Human Rights to programmes which promote the human rights of internally displaced persons, including advisory services, technical cooperation, and monitoring;

A greater commitment to the Task Force on Internally Displaced Persons of the Inter-Agency Standing Committee, in particular by the Department of Humanitarian Affairs which convenes the Task Force, and a concerted and coherent strategy and work plan which ensures effective follow-up measures by the relevant organizations and agencies.

9. We urge the Commission on Human Rights to:

(a) Request the Secretary-General to allocate the necessary resources to publish and disseminate widely the compilation and analysis of legal norms submitted by the representative (E/CN.4/1996/52/Add.2, dated 5 Decem[illegible] 1995);

(b) Call upon the representative of the Secretary-General to continue to develop an appropriate framework for the protection of internally displaced persons, in particular guiding principles which will serve as a "compact and usable" document for all those working directly with internally displaced persons;

(c) Recognize the right to restitution of property lost as a consequence of displacement, or to compensation for its loss;

(d) Encourage Governments to invite the representative to visit their countries;

(e) Urge Governments of those States visited by the representative to implement his recommendations and suggestions, to make information publicly available on the measures taken, and to cooperate with the High Commissioner for Human Rights on programmes of advisory services, technical cooperation, and monitoring;

(f) Request the High Commissioner for Human Rights to implement an effective programme of advisory services, technical cooperation and monitoring which ensures the promotion of human rights for internally displaced persons;

(g) Request the Department of Humanitarian Affairs to commit the necessary resources to ensure that the Task Force on Internally Displaced Persons of the Inter-Agency Standing Committee serves as an effective forum for follow-up measures.

Notes

1/ Introduced by Austria, sponsored by Argentina, Australia, Austria, Bulgaria, Canada, Colombia, Costa Rica, Croatia, Cyprus, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Liechtenstein, the Netherlands, Norway, Peru, Portugal, the Republic of Korea, the Russian Federation, Sweden, and Uruguay.

2/ Universal Declaration of Human Rights, art. 17, para. 2.

3/ Former Yugoslavia, Russian Federation, Somalia, Sudan, El Salvador, Sri Lanka, Colombia, Burundi, Rwanda, Peru, Tajikistan, Mozambique.

UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1997/NGO/41
14 March 1997

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-third session
Agenda item 9 (d)

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS

Joint written statement submitted by Lutheran World Federation and Caritas Internationalis, non-governmental organizations in special consultative status, and World Christian Life Community, a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[24 February 1997]

Continuing stalemate in the situation of Bhutanese refugees in Nepal

1. At the fifty-second session of the Commission on Human Rights in 1996, the World Christian Life Community, Lutheran World Federation and Caritas Internationalis drew the attention of the Commission to the situation of the Bhutanese refugees residing in eastern Nepal (E/CN.4/1996/NGO/43). Because of the largely unchanged nature of their circumstances for more than six years since they were forced to flee Bhutan, this submission seeks to highlight the continuing plight of some 91,000 Bhutanese refugees living in camps in Nepal and that of an estimated 30,000 unassisted Bhutanese refugees who live outside these camps in both Nepal and India. These refugees represent more than one sixth of the total population of Bhutan and, therefore, constitute one of the world's largest refugee populations if measured on a relative basis. Their plight deserves greater attention from the international community than has been extended hitherto.

2. Despite a number of important developments in the course of 1996, the situation of these refugees remains essentially unchanged. It may be recalled that:

(a) In April 1996 the seventh round of bilateral negotiations between the Royal Governments of Bhutan and Nepal took place in Kathmandu. No tangible progress towards resolving the situation of the refugees was achieved and no date was set for the next round of negotiations which are to take place in the Bhutanese capital, Thimphu;

(b) From 29 April to 6 May 1996 the United Nations Working Group on Arbitrary Detention conducted a follow-up visit to Bhutan which was preceded by a visit to Nepal, including a short visit to the refugee camps. The Working Group's findings are contained in its reports to the Commission on Human Rights (E/CN.4/1997/4/Add.2 and 3);

(c) Serious concerns have been raised regarding the repeated detention of Bhutanese "appeal marchers" under provisions of the Indian Penal Code upon entry into India en route to Bhutan where they intended to petition the King of Bhutan, and regarding the treatment to which many of them have been subjected by Indian prison authorities culminating in the death in custody of 50-year-old Mr. Babu Ram Shengden on 13 June 1996;

(d) On 27 June 1996 the Permanent Representative of Denmark to the United Nations, Jakob Esper Larsen, in his capacity as Chairperson of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees, delivered a brief report to the Executive Committee on the mission to India, Bhutan and Nepal which he undertook from 6 to 27 January 1996;

(e) From 5 to 8 August 1996 UNHCR officials visited Bhutan for the first time to hold discussions with the Royal Government of Bhutan which seemingly did not result in any breakthrough towards a solution;

(f) Bhutanese "appeal marchers" attempting of their own volition to return to Bhutan in the months of August, November and December were immediately apprehended by Royal Bhutanese Police Forces and deported back to India.

3. The situation of the refugees in the camps in eastern Nepal meanwhile has been one of despair and frustration. Most of the refugees wish to return to the place of their former habitual residence in southern Bhutan. The Royal Government of Bhutan, however, appears determined not to allow them re-entry. During last year's session of the Commission on Human Rights, several government delegations expressed optimism regarding the possible outcome of the seventh round of bilateral talks conducted for the first time under the auspices of the foreign ministers of the two countries. With no progress achieved during this last round of bilateral negotiations to date, the continuing stalemate underlines the risk that these refugees may eventually become stateless through the denial by the Royal Government of Bhutan of their fundamental human right to a nationality.

4. Document E/CN.4/1996/NGO/43 provided a detailed background on the origins of this exodus. It may suffice here to recall that the three main ethnic groups of the Kingdom of Bhutan comprise the Ngalongs, the ruling minority, the Sarchops and the ethnic Nepali population. While in the early 1950s, the Royal Government of Bhutan appeared largely sympathetic towards the ethnic Nepali population, subsequent decades saw a distinct change in the Government's attitude culminating in rigorous policies by the late 1980s to integrate them into northern Bhutanese culture under the "One Nation, One People" policy. A new Citizenship Act, promulgated in 1985 and implemented with retroactive effect, provided the foundation for a progressive worsening of the situation and resulted in unprecedented demonstrations in the south of the country in late 1990.

5. Following the demonstrations, widespread human rights violations, deliberately aimed at forcing ethnic Nepalis to leave the country, have been documented by impartial and respected international human rights organizations. Many of the refugees also report having been coerced into signing so-called "voluntary" migration forms. Thousands of ethnic Nepalis consequently fled to neighboring Nepal and India.

International and national legal context

6. The Kingdom of Bhutan has been a signatory since 1973 to the International Convention on the Elimination of All Forms of Racial Discrimination. Despite this declaration of intent it has to date not ratified the Convention. The country has been, moreover, a State party to the Convention on the Elimination of All Forms of Discrimination Against Women and to the Convention on the Rights of the Child since 1981 and 1990 respectively. As a State Member of the United Nations, Bhutan is obliged to adhere to the principles enshrined in the Charter of the United Nations as well as in the Universal Declaration of Human Rights and it is arguably bound by the provisions set forth in the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities adopted by General Assembly resolution 47/135 of 18 December 1992.

7. By virtue of the Nationality Law of Bhutan, enacted in 1958, the then King granted Bhutanese citizenship to Nepali settlers living in Bhutan. The granting of citizenship was notified at the time by royal proclamation, but was not accompanied by any specific certification process. The Bhutan Citizenship Act of 1977 amended the Nationality Law and made eligibility

criteria more stringent. The Bhutan Citizenship Act of 1985 was interpreted during a census carried out in 1988 as further tightening the regulations for eligibility by restricting citizenship to ethnic Nepali adults who could certify that they owned land and had lived in Bhutan ever since 1958.

Recent developments

8. The current situation of the refugees is marked by increasing despair among the population that has resulted, amongst other things, in peaceful demonstrations by groups of refugee "appeal marchers" over the past year. Since January 1996, some 1,000 Bhutanese refugees from the camps began walking via India towards Thimphu, the capital of Bhutan, in order to deliver a petition to the King of Bhutan. According to the United States Department of State's annual report on human rights practices for 1996, numerous ethnic Nepali refugees attempting to return to Bhutan were captured by security forces, tortured, and sent back across the border to India.

9. On 14 March 1996 the European Parliament adopted a resolution on the plight of Nepali-speaking refugees from Bhutan, in which it called upon the Royal Governments of Bhutan and Nepal to reach an agreement which would allow the early, voluntary repatriation of the refugees to their country of origin. In this connection, the European Parliament noted that most refugees would appear to qualify under international law as being genuine citizens of Bhutan and that it considered that Bhutan's Citizenship Act of 1985 might need to be modified as a result.

10. The World Christian Life Community, Lutheran World Federation and Caritas Internationalis subsequently drew the attention of the Commission to the situation of the Bhutanese refugees during its fifty-second session. This intervention was followed by a joint oral intervention to the Working Group on Minorities of the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its last session held from 30 April to 3 May 1996. A written statement by the same organizations was also submitted to the forty-eighth session of the Sub-Commission for consideration by its distinguished member experts (E/CN.4/Sub.2/1996/NGO/1).

11. During UNHCR's Executive Committee meeting held from 25 to 27 June 1996, its Chairperson delivered a report on his mission to India, Bhutan and Nepal which took place in January 1996. In his report he recommended the appointment of an impartial mediator to facilitate, in cooperation with representatives of the Royal Governments of Bhutan and Nepal as well as UNHCR, a verification process for the Bhutanese refugees in Nepal which should be given priority over continued bilateral negotiations which had achieved little progress in the past. Shortly afterwards, the Royal Government of Bhutan extended an official invitation to UNHCR to visit Bhutan which resulted in a mission from 5 to 8 August 1996 by officials of that organization. To date, however, no report of the visit has been made public by UNHCR. Instead, increasing concern is raised by observers regarding the gradual down-scaling of assistance services to the refugees over the past year and the resulting anxiety caused among the camp population in eastern Nepal.

Recommendations

12. In the light of the continuing impasse in this situation and with a view to contributing to a peaceful and constructive solution to the plight of refugees from Bhutan, the undersigned organizations urge the Commission on Human Rights:

(a) To recommend that the Secretary-General of the United Nations prepare a comprehensive report on the situation of the Bhutanese refugees in Nepal and India for the fifty-fourth session of the Commission on Human Rights;

(b) To request the United Nations High Commissioner for Human Rights, in close cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR), to examine the reasons for the exodus of the refugees and to mediate among concerned Governments with a view to arriving at an early resolution of the situation and to take all necessary steps, in line with the Convention on the Reduction of Statelessness of 1961, to ensure that the refugees do not become stateless;

(c) To call upon the Royal Government of Bhutan to repeal its 1985 Citizenship Act and to replace it with laws consistent with international human rights law, the letter and spirit of the Charter of the United Nations and the Universal Declaration of Human Rights, and to ratify the International Convention on the Elimination of All Forms of Discrimination without further delay, and to accede to the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights;

(d) To request the Secretary-General's Special Rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance to visit Bhutan and submit a report on his findings to the next session of the Commission on Human Rights;

(e) To call upon the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child to consider any violation of the respective conventions with respect to refugee women and children prior to, during and after their flight from Bhutan;

(f) To urge the Royal Governments of Bhutan and Nepal to resume their bilateral talks without delay, if necessary through the mediation of a neutral third party, with a view to finding a speedy solution to the plight of the refugees;

(g) To call upon the Royal Government of Bhutan to recognize UN[illegible] as the expert body mandated by the international community to protect refugees and seek long-term and durable solutions to their plight through, inter alia, determining refugee status, working towards a reduction of the phenomenon of statelessness, and to facilitate and monitor the voluntary return of refugees to their homes in conditions of safety and dignity;

(h) To request UNHCR to take a more pro-active role in identifying durable solutions for this population and, in the interim, to maintain appropriate levels of assistance and protection in the camps in Eastern Nepal.